

**Before the  
COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
 Amendment of Part 74 of the Commission's ) MB Docket No. 18-119  
 Rules Regarding FM Translator Interference )  
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 )  
 To: Office of the Secretary  
 Attn: The Commission

## **COMMENTS OF HENSON MEDIA, INC.**

Through affiliated companies, Henson Media, Inc. owns and operates two full-power FM stations, two AM stations, each of which has a FM translator affiliated with it, and has filed for a third translator. These stations serve part of northwest Kentucky and the Evansville, Indiana area. In addition, the company has been involved in media brokering and valuations, and its principal Ed Henson has been active in broadcast associations and boards for many years. Mr. Henson has served on an *ad hoc* committee established by the National Association of Broadcasters to study better ways of resolving interference complaints involving translators. These comments are an effort to respond to the questions and comments in the Notice of Proposed Rulemaking adopted by the Commission on May 10, 2018.

I have long had much respect for the system developed by the Commission for the efficient allocation and use of the FM spectrum. However, one area where the system has faltered in recent years has been in resolving complaints involving interference between translators and full power FM facilities. There has certainly been a need in recent years for a more objective, engineering-based system for resolving these complaints. As stated in Paragraphs 2 and 4 of the NPRM, translators are authorized on a secondary basis only, but recent “substantial growth in the translator service, and the economic importance of translators for AM station viability, has led to increased industry interest in clarifying and streamlining the translator interference rules to create greater investment certainty and avoid protracted and expensive interference resolution disputes.” I agree with the statement in paragraph 10 of the NPRM that “We conclude that it is time to update the interference complaint

process.” MB Docket No. 18-119, provides significant progress in establishing such a system.

### **1.Channel Changes:**

In the NPRM, the Commission proposes to modify Section 74.1233(a)(1) of the Rules to define an FM translator’s change to any available FM channel as a minor change, upon a showing of interference to or from any other broadcast station. **I enthusiastically support this proposal**, which from my experience has very strong support among many groups. It helps full power stations by providing a quicker solution to eliminating received interference, and provides the translator licensee another tool for resolving interference and a greater opportunity to stay on the air, both of which benefit the listener in maintaining service. To prevent “band-hopping,” the Commission was wise to add paragraph 14 to the NPRM to limit this flexibility to move anywhere on the dial to applications seeking channels within the same band.

### **2. Limits on Actual Interference Complaints:**

Translators are currently and should continue to be secondary services; however, as the Commission stated in paragraph 26 of the NPRM, “it is indisputable that as a result of the vast increase in new and modified translator station licensing and changes in translator service rules, translators have taken on increased importance over the past decade, especially for AM broadcasters.”

This statement is very accurate. From my variety of business experiences and relationships, I know of a significant number of broadcasters in the Commonwealth of Kentucky, who own AM stations only, but have been able to improve their local service through the use of a translator. These Kentucky broadcasters include Jim Moore in Mayfield, KY; Joe McEnaney in Princeton, KY; Dwayne Forbis in Horse Cave, KY; David Humes in Richmond, KY; Cale Tharp in Hodgenville, KY; Dugan Ryan in the Louisville, KY area; and others. In each of these cases, the licensee only owns an AM station and relies heavily on their translator to stay in operation as a viable business. There are a number of other Kentucky broadcasters who own FM stations, but also own AM stations that depend on translators for FM listenership. These groups include Forcht Broadcasting, Commonwealth Broadcasting, Wallingford Broadcasting, Henson Media and W&B Broadcasting. For all of these Kentucky broadcasters, and many similar broadcasters in each of the other 49 states, this issue is extremely important. We should never lose sight that translators for AM

stations have increased service for hundreds or even thousands of communities across the country.

However, there is a need to balance the services provided by translators, especially those complementing AM stations, with the priority of full power stations that have primary licenses and, in most cases, were purchased at significantly higher prices than translators. In paragraph 28, the Commission proposed that “no complaint of actual interference will be considered actionable if the alleged interference occurs outside the desired station’s 54 dBu contour.” I basically agree with this proposal, but differ with the conclusion in this paragraph that different classes of facilities don’t warrant separate treatment. Lower power stations have suffered as population areas continue to sprawl and these stations deserve extra protection in order to facilitate service to their principal market. I would propose a limit of protection for full-power stations to 54 dBu for Class C, C1, C2 and Class B facilities and 51 dBu for Class A, B1 and C3 facilities. This extra protection beyond the protected contours (except for Class B facilities) would be appropriate due to the secondary status of translators and to account for terrain changes, since only terrain values from two to ten miles are used in determining height above average terrain. We should also never lose sight that as a secondary service, translators are still subject to displacement by full power stations.

Any objective, engineering-based solution to this problem must contain a contour that limits protection to some contour to avoid licensees arguing for protection well beyond their market area. The contour limitation stated above should be based on the FCC (50,50) contours to provide for consistency with the rest of the FCC allocation process. Translators providing local service should not be forced off the air to accommodate the “owner’s contour.” As the Commission stated well in paragraph 27, “we propose to identify a predicted signal contour within which most of a station’s listeners are located and to not require elimination of interference beyond that contour.” This concept would provide protection for most listeners, but not all, and should be applied even if the number of affected listeners would be a sizable number in large markets. Also, while full power stations are entitled to protection as a primary service, this does not extend to stations that are trying to have coverage far beyond what is reasonable given their operating parameters, even if this area constitutes a significant percentage of their listeners.

### **3. Complaint Requirements and Remediation Procedures:**

I am supportive of the Commission’s conclusions in this section (paragraphs 18 – 22). The requirements outlined in paragraph 19 for complaints to be considered to

be *bona fide* are appropriate as would be a requirement that the listener complaint be signed with a statement that the listener certifies that all of the information included in the complaint is accurate, including the certification that the listener has no legal, financial or familial affiliation with the desired station. It is important to establish the legitimacy of these complaints. These complaints also should be from a sufficient number of locations to make sure the interference is not the result of terrain shielding.

The procedures described in paragraphs 21 and 22 would take much of the subjectivity out of deciding these cases by the Commission. Reliance on U/D showings to determine if interference exists and to show if it does, under what parameters the translator could operate without causing interference, would again make this process more objective and engineering based. The Commission could rely exclusively on U/D showings, except in cases when the listener withdrew the complaint, due to corrective action by the translator licensee. If on/off tests are used, specific criteria should be utilized. Also, with regard to the solicitation of input at the end of paragraph 22 in the NPRM, I would agree with the NAB that there be a 90 day limit to this process from the date the Commission receives the complaint. This would be in fairness to full power stations, which are in danger of losing listeners if interference continues for a protracted time.

### **Conclusion:**

The Commission is to be commended for expanding the availability of translators as part of AM revitalization over the last several years. The Commission is also to be commended for addressing the issue of developing a better system for resolving interference complaints involving translators, especially those translators that are used with AM stations. **Allowing translators to move anywhere on the dial, establishing a reasonable contour limitation for protection, and using U/D tests as an objective standard are the cornerstones of that effort. This is a critical effort to hundreds or even thousands of broadcasters across the country.**

Submitted by:

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